

111TH CONGRESS
1ST SESSION

H. R. 3462

To amend the Internal Revenue Code of 1986 to encourage the use of corrosion prevention and mitigation measures in the construction and maintenance of business energy-related property.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2009

Mr. BRADY of Texas (for himself, Mr. CONAWAY, Ms. SUTTON, and Mr. CULBERSON) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to encourage the use of corrosion prevention and mitigation measures in the construction and maintenance of business energy-related property.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Corrosion Prevention
5 Act of 2009”.

1 **SEC. 2. CREDIT FOR CORROSION PREVENTION AND MITI-**
2 **GATION MEASURES FOR ENERGY-RELATED**
3 **PROPERTY.**

4 (a) IN GENERAL.—Subpart D of part IV of sub-
5 chapter A of chapter 1 of the Internal Revenue Code of
6 1986 (relating to business-related credits) is amended by
7 adding at the end the following new section:

8 **“SEC. 45R. CORROSION PREVENTION AND MITIGATION**
9 **MEASURES FOR ENERGY-RELATED PROP-**
10 **ERTY.**

11 “(a) IN GENERAL.—For purposes of section 38, the
12 corrosion prevention and mitigation credit determined
13 under this section for the taxable year is an amount equal
14 to 50 percent of the excess of—

15 “(1) qualified corrosion prevention and mitiga-
16 tion expenditures with respect to qualified energy-re-
17 lated property, over

18 “(2) the amount such expenditures would have
19 been, taking into account—

20 “(A) amounts paid or incurred to satisfy
21 Federal, State, or local requirements, and

22 “(B) amounts paid for corrosion preven-
23 tion practices, as certified by a person certified
24 pursuant to subsection (b)(2).

25 “(b) QUALIFIED CORROSION PREVENTION AND MITI-
26 GATION EXPENDITURES.—For purposes of this section—

1 “(1) IN GENERAL.—The term ‘qualified corro-
2 sion prevention and mitigation expenditures’ means
3 amounts paid or incurred by the taxpayer during the
4 taxable year for engineering design, materials, and
5 application and installation of corrosion prevention
6 and mitigation technology.

7 “(2) CERTIFICATION MAY BE REQUIRED.—The
8 Secretary shall require by regulation that no amount
9 be taken into account under paragraph (1) for any
10 design, material, application, or installation unless
11 such design, material, application, or installation
12 meets such certification requirements. Such require-
13 ments shall provide for accreditation of certifying
14 persons by an independent entity with expertise in
15 corrosion prevention and mitigation technology.

16 “(3) CORROSION PREVENTION AND MITIGATION
17 TECHNOLOGY.—Corrosion prevention and mitigation
18 technology includes a system comprised of at least
19 one of the following: a corrosion-protective coating
20 or paint; chemical treatment; corrosion-resistant
21 metals; and cathodic protection. The Secretary from
22 time to time by regulations or other guidance may
23 modify the list contained in the preceding sentence
24 to reflect changes in corrosion prevention and miti-
25 gation technology.

1 “(4) QUALIFIED ENERGY-RELATED PROP-
2 ERTY.—The term ‘qualified energy-related property’
3 means property which is—

4 “(A) comprised primarily of a metal sus-
5 ceptible to corrosion,

6 “(B) used in—

7 “(i) the exploration, production, refin-
8 ing, or transportation of oil, natural gas,
9 coal, or any product thereof, or

10 “(ii) the generation, transmission, or
11 distribution of electricity or any other form
12 of energy,

13 “(C) of a character subject to the allow-
14 ance for depreciation,

15 “(D) originally placed in service or owned
16 by the taxpayer, and

17 “(E) located in the United States.

18 “(c) RECAPTURE OF CREDIT.—

19 “(1) IN GENERAL.—If, as of the close of any
20 taxable year, there is a recapture event with respect
21 to any qualified energy-related property for which a
22 credit was allowed under subsection (a), the tax of
23 the taxpayer under this chapter for such taxable
24 year shall be increased by an amount equal to the
25 product of—

1 “(A) the applicable recapture percentage,
2 and

3 “(B) the aggregate decrease in the credits
4 allowed under section 38 for all prior taxable
5 years which would have resulted if the qualified
6 corrosion prevention and mitigation expendi-
7 tures of the taxpayer with respect to such prop-
8 erty had been zero.

9 “(2) APPLICABLE RECAPTURE PERCENTAGE.—

10 “(A) IN GENERAL.—For purposes of this
11 subsection, the applicable recapture percentage
12 shall be determined from the following table:

“If the property ceases to be qualified energy-related prop- erty within:	The recapture percentage is:
(i) One full year after placed in service	100
(ii) One full year after the close of the period described in clause (i)	80
(iii) One full year after the close of the period described in clause (ii)	60
(iv) One full year after the close of the period described in clause (iii)	40
(v) One full year after the close of the period described in clause (iv)	20.

13 “(B) RECAPTURE EVENT DEFINED.—For
14 purposes of this subsection, the term ‘recapture
15 event’ means—

16 “(i) CESSATION OF USE.—The ces-
17 sation of use of the qualified energy-related
18 property.

19 “(ii) CHANGE IN OWNERSHIP.—

1 “(I) IN GENERAL.—Except as
2 provided in subclause (II), the disposi-
3 tion of a taxpayer’s interest in the
4 qualified energy-related property with
5 respect to which the credit described
6 in subsection (a) was allowable.

7 “(II) AGREEMENT TO ASSUME
8 RECAPTURE LIABILITY.—Subclause
9 (I) shall not apply if the person ac-
10 quiring the qualified energy-related
11 property agrees in writing to assume
12 the recapture liability of the person
13 disposing of the qualified energy-re-
14 lated property. In the event of such
15 an assumption, the person acquiring
16 the qualified energy-related property
17 shall be treated as the taxpayer for
18 purposes of assessing any recapture li-
19 ability (computed as if there had been
20 no change in ownership).

21 “(III) SPECIAL RULE FOR TAX
22 EXEMPT ENTITIES.—Subclause (II)
23 shall not apply to any tax exempt en-
24 tity (as defined in section 168(h)(2)).

25 “(iii) SPECIAL RULES.—

1 “(I) TAX BENEFIT RULE.—The
2 tax for the taxable year shall be in-
3 creased under paragraph (1) only with
4 respect to credits allowed by reason of
5 this section which were used to reduce
6 tax liability. In the case of credits not
7 so used to reduce tax liability, the
8 carryforwards and carrybacks under
9 section 39 shall be appropriately ad-
10 justed.

11 “(II) NO CREDITS AGAINST
12 TAX.—Any increase in tax under this
13 subsection shall not be treated as a
14 tax imposed by this chapter for pur-
15 poses of determining the amount of
16 any credit under this chapter or for
17 purposes of section 55.

18 “(III) NO RECAPTURE BY REA-
19 SON OF CASUALTY LOSS.—The in-
20 crease in tax under this subsection
21 shall not apply to a cessation of oper-
22 ation of the property as qualified en-
23 ergy-related property by reason of a
24 casualty loss to the extent such loss is
25 restored by reconstruction or replace-

1 ment within a reasonable period es-
2 tablished by the Secretary.

3 “(d) DENIAL OF DOUBLE BENEFIT.—For purposes
4 of this subtitle—

5 “(1) BASIS ADJUSTMENTS.—

6 “(A) IN GENERAL.—If a credit is deter-
7 mined under this section for any expenditure
8 with respect to any property, the increase in the
9 basis of such property which would (but for this
10 subsection) result from such expenditure shall
11 be reduced by the amount of the credit so al-
12 lowed.

13 “(B) CERTAIN DISPOSITIONS.—If, during
14 any taxable year, there is a recapture amount
15 determined with respect to any property the
16 basis of which was reduced under subparagraph
17 (A), the basis of such property (immediately be-
18 fore the event resulting in such recapture) shall
19 be increased by an amount equal to such recap-
20 ture amount. For purposes of the preceding
21 sentence, the term ‘recapture amount’ means
22 any increase in tax (or adjustment in
23 carrybacks or carryovers) determined under
24 subsection (c).

1 “(2) OTHER DEDUCTIONS AND CREDITS.—No
 2 deduction or credit shall be allowed under this chap-
 3 ter for any expense taken into account under this
 4 section.

5 “(e) REGULATIONS.—The Secretary shall prescribe
 6 such regulations as may be appropriate to carry out this
 7 section.

8 “(f) APPLICATION OF SECTION.—This section shall
 9 apply to taxable years beginning during the 2-year period
 10 beginning on the date of the enactment of this section.”.

11 (b) CREDIT MADE PART OF GENERAL BUSINESS
 12 CREDIT.—Subsection (b) of section 38 of such Code (re-
 13 lating to current year business credit) is amended by strik-
 14 ing “plus” at the end of paragraph (34), by striking the
 15 period at the end of paragraph (35) and inserting “, plus”,
 16 and by adding at the end thereof the following new para-
 17 graph:

18 “(36) the corrosion prevention and mitigation
 19 credit determined under section 45R(a).”.

20 (c) CLERICAL AMENDMENT.—The table of sections
 21 for subpart D of part IV of subchapter A of chapter 1
 22 of such Code is amended by inserting after the item relat-
 23 ing to section 45Q the following new item:

“Sec. 45R. Corrosion prevention and mitigation measures for energy-related
 property.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 the date of the enactment of this Act.

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